

# **MINUTES OF THE REGULAR MEETING OF THE BUTTE-SILVER BOW COUNCIL OF COMMISSIONER**

**OCTOBER 22, 2008**

The **Regular Meeting** of the Council of Commissioners was called to order Wednesday, **October 22, 2008** in the Council Chambers, Third Floor, Room 312, Courthouse Building, 155 W. Granite Street, Butte, Montana by Chief Executive Paul Babb.

## **ROLL CALL**

11 Present 1 absent. Commissioner Frasz was excused.

## **PRAYER**

Commissioners were led in prayer by Commissioner Fay.

## **APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF OCTOBER 1, 2008**

It was moved by Commissioner O'Leary, seconded by Commissioner Lee, and carried by a roll call vote of 11 yeas, 0 nays and 1 absent to approve the Minutes of the Regular Meeting of October 1, 2008.

## **ITEMS NOT ON THE AGENDA SUSPENSION OF THE RULES**

It was moved by Commissioner O'Leary, seconded by Commissioner Lee, and carried by a roll call vote of 11 yeas, 0 nays and 1 absent to suspend the rules for the purpose of passing Council Resolution No. 08-91 by waiving Subsection 7 of Rule XXXVI of the Rules and Order of Business of the Council of Commissioners, thereby having it considered for advanced passage without reference to the Judiciary Committee

## **PUBLIC COMMENT ON ANY PUBLIC MATTER NOT ON THE AGENDA**

None

## **CHIEF EXECUTIVE'S REPORT**

Chief Executive Babb told the Council that last week the Library unveiled their open source computer software. He encouraged everyone to visit the library.

Also Markovich has begun construction on SeaCast so we are well on our way to getting that to completion. Old Dominion in our Industrial Park is also very close to being completed. Karen Byrnes is the point of contact for the Supercomputer project.

He said they would be meeting with their Capital Improvements Committee at 10AM in his office.

## **SECTION I REQUEST FOR QUALIFICATIONS**

FOR THE PURPOSE OF ACCEPTING AND OPENING RESPONSES TO REQUEST FOR PROFESSIONAL ENGINEERING SERVICES FOR ELEVATOR DESIGN, REPAIR AND UPGRADE FOR TWO ELEVATORS LOCATED IN THE COURTHOUSE BUILDING. **(Communication No.08-687 being held in Committee of the Whole) Proof of publication was noted and placed on file.**

Bill Melvin Civic Center Director, opened the following three proposals:

SMA, Last Chance Gulch in Helena, MT  
Charles A. Kestle Associates, Butte, MT  
Hinick and Associates, Butte, MT

**It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a unanimous verbal vote to refer the proposals to the proper committee for review and report back.**

## **SECTION I CONSENT AGENDA**

- A.**
  - 1. COMMITTEE OF THE WHOLE MEETING REPORT
  - 2. FINANCE AND BUDGET COMMITTEE MEETING REPORT
  - 3. JUDICIARY COMMITTEE MEETING REPORT
  - 4. PUBLIC WORKS COMMITTEE MEETING REPORT
  - 5. PERSONNEL COMMITTEE MEETING REPORT

### **B. COMMUNICATIONS**

Before entertaining a motion for approval of the Consent Agenda, Chief Executive Babb called for any segregations. Commissioner O’Leary called for ‘friendly amendments’ to Item 1, Communication No. 08-688 which should read “Port of Montana” and not portion of Montana, Item 11, Communication 08-699 change the word crate to create. The last one is on Item 33, Communication 08-722 – part of the recommendation should be “refer to Mr. Dennehy, Public Works Department, County Attorney McCarthy and Rob Macioroski for their comments and hold in Committee of the Whole.” Commissioner Shaw said on page 16 of the Judiciary Committee Report Section V – the Council Resolution Number. is

incorrect. It should read 08-83 and in the recommendation it should say to be denied and placed on file. Commissioner Lee made a “friendly amendment” to the Committee of the Whole Committee Meeting Report, Section I , No. 10 Mainstreet Uptown Butte the amount should be \$50,000.00. The adjustment to the total should read \$217,809.00.

**It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a unanimous verbal vote to approve the Consent Agenda, Section A, Items 1 through 5, Section B, Items 1 through 33.**

## **SECTION II                    COMMUNICATIONS TO BE READ AND ACTED UPON**

1. 08-694     Martyn Salusso and Floyd Bossard, Centennial Concrete, Inc., requesting permission to close a gate ½ mile west of Excelsior and Centennial junction during operating hours for safety reasons and at night for security purposes.

Floyd Bossard, 222 Aspen Loop, Butte, MT. The Bossard and the Antonoli family have manganese stockpiles west of the plant that butchers cattle and hogs. We are midway between that plant and Rocker. We are in the process of processing, preparing and hopefully, under the current economic conditions, marketing some manganese nodules and ore. We have a contractor, Centennial Concrete. Marty Salusso is the president.

Martyn Salusso, 1825 Gladstone, explained what they feel are safety issues. The stockpiles are 20 feet high and are right along side of the highway. Kids coming from Rocker drive through there 50-60 MPH. If a loader or little pickup comes out of one of those piles there is no way they could stop without an accident. There is also a problem with people going west out of town. They get off of Excelsior Street and they think that’s a road out of there. They go down that street, turn around and come back again. They are lost. We have a problem with people coming and stealing our stuff. We have equipment and large copper wires. They stole all the wires off my crushing plant.

Dan Dennehy, Public Works Department, said the road is a dedicated county road. We do maintain it. We do have liability issues with the gate. He would like to have a meeting with Mr. Bossard and Mr. Salusso to come to some agreement for conditional use of that road.

**It was moved by Commissioner Coleman, seconded by Commissioner Lee and carried with a unanimous verbal vote to refer Communication No. 08-694 to the Public**

### **Works Committee.**

2. 08-708 Ed Randall, Community Enrichment Program Manager, requesting time on 10/22/08 agenda for approval for Butte-Silver Bow to assume ownership of 1622 N. Main Street in Walkerville and demolish the building.

Ed Randall, Community Enrichment Program Manager, stated that several months ago they were approached by a neighbor of 1622 N. Main in Walkerville stating that the building had collapsed on the home east of there and was leaning against the property of the gentleman that called. Mrs. Helen Maunder is the owner of the property. We have designated it a safety issue. Mrs. Maunder doesn't have the financial means right now to demo the property. She wants to donate the property to us for demolition. Chuck Carrig also spoke and said most of the historic fabric of the building has been removed. He suggests that no one attempt to enter that building.

**It was moved by Commission Mulcahy, seconded by Commissioner Coleman to approve the request in Communication No. 08-708 with the recommendation to assume ownership of 1622 N. Main Street in Walkerville and work on demolishing it. The motion carried with a unanimous verbal vote.**

### **SECTION III**

### **ORDINANCES AND RESOLUTIONS – REFERRED TO JUDICIARY**

1. **COUNCIL BILL NO. 08-7  
ORDINANCE NO.**

AN ORDINANCE AMENDING SUBSECTION 9.01 OF SECTION 4 OF BUTTE-SILVER BOW ORDINANCE NO. 204 AND CHAPTER 10.32 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED "STOP SIGNS" AND SECTION 10.32.010(g), (m), (s) and (t) B-SB MC; PROVIDING THAT TRAFFIC PROCEEDING ALONG GALAXY DRIVE SHALL STOP BEFORE ENTERING THE INTERSECTION OF GALAXY DRIVE AND MILKY WAY; PROVIDING THAT TRAFFIC PROCEEDING ALONG GALAXY DRIVE SHALL STOP BEFORE ENTERING THE INTERSECTION OF GALAXY DRIVE AND MEADOWLARK LANE AND TRANQUILITY LANE, PROVIDING THAT TRAFFIC PROCEEDING ALONG MEADOWLARK LANE SHALL STOP BEFORE ENTERING THE INTERSECTION OF MEADOWLARK LANE AND GALAXY DRIVE; PROVIDING THAT TRAFFIC PROCEEDING ALONG STATE STREET SHALL STOP BEFORE ENTERING THE INTERSECTION OF STATE

STREET AND SHERMAN STREET; PROVIDING THAT TRAFFIC PROCEEDING ALONG TRANQUILITY LANE SHALL STOP BEFORE ENTERING THE INTERSECTION OF TRANQUILITY LANE AND GALAXY DRIVE AND MEADOWLARK LANE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

**2. COUNCIL BILL NO. 08-8  
ORDINANCE NO.**

AN ORDINANCE AMENDING SUBSECTION 9.03 OF SECTION 4 OF BUTTE-SILVER BOW ORDINANCE NO. 204 AND CHAPTER 10.32 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED “STOP SIGNS” AND SECTION 10.32030(A) (b) (2), BSB MC; PROVIDING FOR DESIGNATION OF BLACKTAIL AS A THROUGH STREET FROM ITS INTERSECTION WITH ELIZABETH WARREN ON THE NORTH TO ITS INTERSECTION WITH MOUNT HIGHLAND DRIVE ON THE SOUTH AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

**SECTION IV ORDINANCES –  
SECOND READING**

**1. COUNCIL BILL NO. 08-5  
ORDINANCE NO.**

AN ORDINANCE AMENDING SECTION 2 OF THE BUTTE-SILVER BOW ORDINANCE NO. 134 AND SECTION 2.04.010 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC); ADJUSTING THE ANNUAL SALARIES OF THE CHIEF EXECUTIVE, COUNTY ATTORNEY, SHERIFF, CLERK AND RECORDER, TREASURER, ASSESSOR, CITY JUDGE, JUSTICE OF THE PEACE, AUDITOR, SUPERINTENDENT OF SCHOOLS, CLERK OF THE DISTRICT COURT, CORONER AND MEMBERS OF THE COUNCIL OF COMMISSIONERS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a roll call vote of 9 yeas, 2 nays and 1 absent to place Council Bill No. 08-5 on final reading and passed. Voting nay were Commissioners Foley and Granger.**

**2. COUNCIL BILL NO. 08-6  
ORDINANCE NO. 08-**

AN ORDINANCE AMENDING ORDINANCE NO. 479 AND CHAPTER 3.12 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED “CONTRACT PURCHASES”; AMENDING SECTIONS 3.12.012 AND 3.12.030, B-SB MC; ADDING A NEW SECTION TO BE NUMBERED 3.12.013, B-SB MC AND ENTITLED “PURCHASE REQUIREMENTS”; ADDING A NEW SECTION TO BE NUMBERED 3.12.014, B-SM MC AND

**SECTION V**

**ORDINANCES AND RESOLUTIONS –  
FINAL READING**

**A RESOLUTION APPROVING A 15 FOOT BY 100 FOOT GRANT OF EASEMENT TO NORTHWESTERN CORPORATION D/B/A NORTHWESTERN ENERGY, A DELAWARE CORPORATION, IN THE NORTHEAST QUARTER OF SECTION 13, TOWNSHIP 3 NORTH, RANGE 8 WEST, P.M.M., DESCRIBED AS LOT 14 IN BLOCK 11 OF THE ORIGINAL BUTTE TOWNSITE FOR THE LOCATION OF AN OVERHEAD POWER LINE EASEMENT AND NECESSARY APPURTENANCES; FINDING THE NECESSARY FACTS FOR THIS RESOLUTION AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 11 yeas, 0 nays and 1 absent to place Council Resolution No. 08-82 on final reading and passed having been deemed fully read at length.**

**A RESOLUTION ESTABLISHING CRITERIA FOR THE CLASSIFICATION OF UNSOLD TAX-DEED LANDS; DETERMINING THAT CERTAIN PROPERTY SHOULD BE HELD IN CITY-COUNTY OWNERSHIP BECAUSE OF COMPELLING PUBLIC INTEREST; ORDERING CERTAIN PARCELS OF REAL PROPERTY BE HELD IN CITY-COUNTY OWNERSHIP; AND PROVIDING FOR AN EFFECTIVE DATE HEREIN**  
**It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a roll call vote of 11 yes, 0 nays and 1 absent to place Council Resolution No. 08-86 on final reading and passed having been deemed fully read at length.**

A RESOLUTION ACCEPTING THE DONATION OF PARCEL 1-B OF CERTIFICATE OF SURVEY NO. 873-B TO THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried with a roll call vote of 11 yeas, 0 nays and 1 absent to place Council Resolution No. 08-87 on final reading and passed having been deemed fully read at length.

**4. COUNCIL RESOLUTION NO. 08-88**

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE PRELIMINARY PLAT OF THE PERRY'S LODGE MINOR SUBDIVISION OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried with a roll call vote of 11 yeas, 0 nays and 1 absent to place Council Resolution No. 08-88 on final reading and passed having been deemed fully read at length.**

**SECTION VI ORDINANCES AND RESOLUTIONS –  
SUSPENSION OF THE RULES**

**It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried with a roll call vote of 11 yeas, 0 nays and 1 absent to suspend the rules for the purpose of passing Council Resolutions 08-89 and 08-90 by waiving subsection 7 of Rule XXXVI, of the Rules and Order of Business of the Council of Commissioners, thereby having it considered for advanced passage without reference to the Judiciary Committee.**

**1. COUNCIL RESOLUTION NO. 08-89**

A RESOLUTION ESTABLISHING CRITERIA FOR THE CLASSIFICATION OF UNSOLD TAX-DEED LANDS; DETERMINING THAT CERTAIN PROPERTY SHOULD BE HELD IN CITY-COUNTY OWNERSHIP BECAUSE OF COMPELLING PUBLIC INTEREST; ORDERING CERTAIN PARCELS OF REAL PROPERTY BE HELD IN CITY-COUNTY OWNERSHIP; AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a roll call vote of 11 yeas, 0 nays and 1 absent to place Council Resolution 08-89 be placed on final reading having been deemed fully read at length.**

**2. COUNCIL RESOLUTION NO. 08-90**

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF CERTAIN PARCELS OF TAX DEEDED REAL PROPERTY OWNED BY THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a roll call vote of 11 yeas, 0 nays and 2 absent to place Council Resolution No. 08-90 on final reading having been deemed fully read at length.**

**3. EMERGENCY RESOLUTION  
COUNCIL RESOLUTION NO. 08-91**

A RESOLUTION REQUESTING PROSECUTORIAL ASSISTANCE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a roll call vote of 11 yeas, 1 nay and 1 absent to place Council Resolution No. 08-91 be placed on final reading having been deemed fully read at length. Commissioner Moodry voted nay.**

**ADJOURN**

**There being no further business to come before the Council, it was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to Rise to the Call of the Chair.**

The meeting adjourned at 8:30 Pm

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CHIEF EXECUTIVE

ATTEST:

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CLERK AND RECORDER



